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AN ACT

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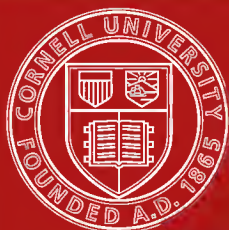
OF THE

STATE OF NEW-YORK,

Passed April 16, 1851.

ALBANY:

WEED, PARSONS & CO., PRINTERS,
1851.



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AN ACT

RELATING TO THE

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AN ACT

For the enrolment of the militia; to abolish militia fines in certain cases; and to exempt members of uniformed companies from working on highways and serving on juries.

Passed April 16, 1851, "A majority of all the members elected to the Senate and Assembly voting therefor, and two-thirds of all the members present concurring."

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

SECTION 1. The commander-in-chief is hereby authorised and empowered to appoint and commission the brigade, regimental and company officers necessary to complete the organization of all military districts not now organized.

§ 2. The commander of each regimental district, is hereby authorised and required to appoint the non-commissioned officers required by law for each company in his district, and to issue to such non-commissioned officer, the proper warrants of their appointment.

§ 3. The assessors chosen in each city, village, town or ward, shall annually, between the first days of May and July in each year, make out a roll which shall contain the names of all persons in their respective assessment districts, between the ages of eighteen and forty-five years, liable to be enrolled by the laws of the United States, arranged alphabetically, and shall make three fair copies thereof for the purposes hereinafter directed.

§ 4. It shall be the duty of the adjutant-general to prepare a roll, in such style and form as he shall deem most convenient and proper, for the use of the assessors, and in addition to the names, as herein directed, the assessors shall take and set down in separate columns to be designated on said roll, opposite to each name,

such further information as the adjutant-general may deem important and requisite, to comply with the law of Congress.

§ 5. The adjutant-general shall attach to said roll, such instructions as shall enable the assessors to carry out the provisions of this act, and on or before the twentieth day of April, in each and every year, he shall furnish to the supervisors of each city, village, town or ward in this State, sufficient numbers of said roll, so prepared, as aforesaid, to enable the said assessors of the towns, villages, cities or wards, to carry out the provisions of this act; the supervisors shall deliver the said rolls to the assessors immediately upon receiving the same from the adjutant-general.

§ 6. The assessors shall sign the copies hereby required to be filed and delivered, and shall attach thereto an affidavit substantially as follows :

“ The undersigned, assessors of the town of _____ in the county of _____ being severally sworn, say that they have made strict and diligent inquiry to ascertain the names of all persons required to be enrolled, as liable to military duty, by the laws of the United States, residing in said town, village or ward of _____

that the roll hereto annexed is, as near as these deponents can ascertain, a correct roll of all persons, residing in said town or ward, who are liable to be enrolled.” The said affidavit may be taken before any officer authorized by law to take affidavits, whose duty it shall be to take the same without fee or reward.

§ 7. All tavern keepers, keepers of boarding houses, persons having boarders in their families, and every master and mistress of any dwelling house, and head of quaker or shaker societies or communities, shall, upon the application of any assessor, give information of the names of all persons residing or lodging in such house, or belonging to such society or community, liable to be enrolled, and all other proper information concerning such persons as such assessor may demand.

§ 8. If any person of whom information is required by any assessor, in order to enable him to comply with the provisions of this act, shall refuse to give such information, or shall give false information, he shall forfeit and pay ten dollars for each item of information demanded of him by any assessor and falsely stated, and the like sum for each individual name that may be refused, concealed, or falsely stated; and every person who shall refuse to give his own name and proper information when applied to by any assessor, or shall give a false name or information, shall forfeit and pay a

like sum to be recovered in any court of competent jurisdiction, in the name of the commanding officer of the regiment; and it is hereby made the duty of the assessors to report the names of all persons who may incur the penalty in this section prescribed to the commandant of the company district in which they reside.

§ 9. As soon as the roll is completed, the assessors shall forthwith cause notices thereof to be put up in three of the most public places in the village, city, town or ward, which notices shall set forth that the assessors have made their roll of all persons liable to be enrolled according to the laws of the United States, and that a copy thereof is left with one of their number to be designated in such notice, at some place to be specified therein, where the same may be seen and examined by any person interested therein, during twenty days; the assessor with whom such roll is left, shall submit the same during the twenty days specified in such notice, to the inspection of all persons who shall apply for that purpose.

§ 10. Any person whose name appears on the said roll, and who claims that he is not liable to military duty, on account of some physical defect or bodily infirmity, or that he is exempt from the performance of military duty by any law of this state or of the United States, may, within the said twenty days, and not after, file with the assessor having such roll, an affidavit stating such facts on which he claims to be exempt or not liable to do military duty. Such affidavit may be made before the assessors or one of them, either of whom is hereby authorized to administer an oath for that purpose, and the assessors shall cause all such affidavits to be filed in the office of the city, village, or town clerk, and if any person shall swear falsely in such affidavit, he shall be guilty of perjury.

§ 11. On some day or days after in the first week in August, the assessors shall meet and determine who are exempt or not liable to do military duty, and in a column prepared for that purpose in such roll, opposite the name of each person not exempt, shall insert fifty cents; and opposite the name of each person not liable to do duty, shall insert "exempt," or "not liable," as the case may be; and opposite the name of all members of uniform companies on each roll shall insert "u. c." and against the name of any military officer in commission and liable to do duty, the title of his office; and shall also insert against the names of persons between the ages of eighteen and twenty-one years, "under twenty-one," but if such person will have arrived at the age of twenty-one years on or

before the fifteenth day of November following each enrolment, then the designation last above provided need not be made.

§ 12. When the said roll shall be completed as aforesaid, the said assessors shall make three fair copies thereof, and shall sign each of said copies, and attach thereto an affidavit as hereinbefore provided; one of which copies shall be filed in the office of the town clerk, and one other copy shall be delivered to the commandant of the company district in which such assessors reside, and the other copy shall be delivered to the supervisor of the town or ward with the assessment roll of the town or ward, who shall deliver the same to the board of supervisors at their next annual meeting, and it shall be called the "military roll of such town or ward."

§ 13. The assessors, in the execution of their duties, shall use the forms and pursue the instructions which shall from time to time be transmitted to them by the adjutant-general.

§ 14. If any assessor shall refuse or neglect to perform any of the duties required of him by this act, he shall forfeit and pay the sum of not less than ten nor more than fifty dollars, to be recovered in the name of the commanding officer of the regiment within the bounds of which he resides; and if any assessor shall wilfully neglect or refuse to perform such duties as hereby required, he shall be deemed guilty of a misdemeanor.

§ 15. If any assessor shall neglect, or from any cause omit to perform his duties, the other assessors, or either of them, of the city, village, town or ward, shall perform such duties, and shall certify to the commandant of the company district with their roll, the name of such delinquent assessor, stating the cause of such omission.

§ 16. The board of supervisors of each county in this state at their annual meeting, shall cause the military roll of every city, village, town or ward, to be compared with the assessment roll of the same city, village, town or ward, and all names on the said military roll, liable to pay the said commutation of fifty cents, shall be transferred to the corrected assessment roll of the same city, village, town or ward, and in a column to be provided for that purpose, in the said corrected assessment roll, shall be set opposite the name of every person so liable to pay such commutation the sum of fifty cents; and if the person shall be assessed for real or personal property on such assessment roll, the said sum of fifty cents shall be added to the other tax against the same person.

§ 17. The said sum of fifty cents against every person who shall appear by the said assessment roll liable to pay the same, shall be collected at the same time and in the same manner as other taxes are collected in the said county. And the warrants annexed by the supervisors to the assessment rolls of the several towns and wards, shall direct the collectors to collect the said sum of fifty cents from every person appearing by the said assessment roll, liable to pay the same, in the same manner as other taxes are collected, and to pay the same to the county treasurer.—And where the name of any person between the ages of eighteen and twenty-one years, shall appear on the said roll, liable to pay the said commutation, the said warrant shall direct the collector to collect the same of the father, master or guardian, with whom such person shall reside, or out of any property such minor may have in the city, village, town or ward.

§ 18. The collectors shall, in some proper manner, designate upon their rolls the amount paid by each person under this act. And all moneys so collected shall, by the collector, be paid over to the treasurer of the county, to the credit of the military fund of the said county; but nothing contained in this act shall subject any town, ward or city, to pay any amount or sum assessed or taxed against any individual under this act which shall not be collected by the collector of such town, ward or city.

§ 19. The provisions of article first, title three, chapter thirteen of part first of the Revised Statutes, shall apply to this act so far as the same are applicable.

§ 20. The bond required by article second, title third, chapter eleven of part first of the Revised Statutes, to be executed to the supervisor of the city, village, town or ward, by the collector, shall apply to any moneys required to be collected by this act.

§ 21. It shall be the duty of every county treasurer in this state to procure suitable books, in which shall be entered an account of all moneys received in pursuance of this act, and which shall be called the military fund of such county; he shall also enter in said books an account of all moneys paid out of the said fund, and for what purpose; and the account shall be so kept that he can at all times ascertain the amount paid by each city, village, town or ward, separately.

§ 22. The fund so created shall be applied exclusively to military purposes, for the benefit of the militia of the said county; except that assessors shall be entitled to receive for their services re.

quired by this act, the sum of one dollar and twenty-five cents for each day's service, to be paid out of the military fund created by this act in the hands of the treasurer of each county, upon the certificate of the supervisor of the town or ward in which said assessor may discharge said duties, that the account rendered by said assessor is just and reasonable.

§ 23. No money shall be paid from such fund by the county treasurer, except the fees of assessors as before provided, but upon the order of a board of officers, as provided in section twenty-four of this act, countersigned by the commandant of the brigade, and which order shall specify on its face the objects for which such money is paid.

§ 24. Such board shall consist of the commanding officer of the brigade, who shall be president thereof, and of the field officers of the regiment, any three of whom shall form a quorum for business, the commanding officer of the brigade being one.

§ 25. Where a part of a regiment only shall be in one county, the funds shall be applied to the payment of that portion of the regiment in the county, and to an equitable proportion of the regimental expenses at the annual parade.

Where parts of two regiments shall be in the same county, the military fund of the county shall be equitably applied between them; and all differences arising in relation thereto shall be determined by the brigadier general and the county judge, whose decision in the matter shall be filed with the county treasurer, and by him recorded in a book for that purpose.

Where two regiments belonging in different brigades shall be wholly or partly in the same county, the said fund shall be equitably applied between them, and all differences in relation thereto shall be determined by the county judge and the commanding officers of the said brigades, whose decision shall in like manner be filed and recorded.

No company district shall divide a town or ward.

§ 26. It shall be the duty of the commandant of every company district to make or cause to be made a complete enrolment of the names of all persons liable to be enrolled by the laws of the United States, which enrolment shall be made from the lists furnished to said commandants by the assessors as herein provided, and shall contain all the information, set down in the same manner as is contained in the lists so furnished by the said assessors. After the said enrolment is completed as herein directed, it shall be the duty

of the commandants of company districts annually thereafter, carefully to correct their rolls, from the lists furnished by the assessors as herein provided; all persons whose names appear in said enrollment, shall be regarded as legally and properly enrolled, and the notice given by the assessors, as prescribed in section nine of this act, shall be a sufficient notice of such enrollment. If the name of any person liable to be enrolled shall have been omitted by the assessors, the commandant of the company district shall add such name to his roll, and notify the person thereof, and also the assessor of his district.

§ 27. It shall be the duty of commandants of companies, at the annual parade and encampment, to furnish the brigade inspector with a report, which shall show: 1st, the number of commissioned, non-commissioned officers, musicians and privates of his uniformed company present on parade, designating the number of each; 2d, the number of such company absent from parade, designated in the same way; 3d, the number of ununiformed militia enrolled in his company district.

§ 28. Section forty of the act entitled "An act to provide for the enrollment of the militia, and to encourage the formation of uniform companies, excepting the first military district of this state," passed May 13, 1847, is hereby amended so as to read as follows: In lieu of said annual parade, the commanding officer of the brigade may, as often as he shall deem proper, order such regiment so organized, uniformed and equipped, to parade for not to exceed ten consecutive days, between the first day of May and November in each year, to commence on any Monday he shall deem proper; and all parades and encampments held in pursuance of this act, shall be governed by the rules and regulations of the army of the United States, as prescribed by the commander-in-chief for the militia of this state.

§ 29. Section forty-three of said act is hereby amended so as to read as follows:

Every non-commissioned officer, musician and private of any uniform corps of this state, shall be holden to duty therein for the term of seven years from his enlistment, unless disability after enlistment shall incapacitate him to perform such duty, or he shall be regularly discharged by the proper officer; all general and staff officers, all field officers, and all commissioned and non-commissioned officers, musicians and privates of the uniformed corps of

this state shall be exempt from jury duty, during the time they shall perform military duty.

Section forty-seven of said act is hereby amended, by striking out the words "the day," in the first line of said section and inserting in lieu thereof, "each regiment."

§ 30. All fines for the non-performance of military duty by the ununiformed militia are hereby abolished, and in lieu thereof all able-bodied white male citizens between the ages of eighteen and forty-five years, subject to military duty in this state, and not doing duty in the ununiformed militia, shall pay the commutation tax of this act prescribed.

§ 31. If any person shall neglect or refuse to pay the commutation tax as herein prescribed, and the collector of the town or ward to whom the warrant for the collection thereof shall be given, shall be unable to collect the same, it shall be the duty of such collector to return the names of all such persons to the assessors of the town where such person resides, which return shall be delivered by said assessors to their successors in office.

§ 32. Whenever it shall appear from the return of any collector, made in pursuance of the last preceding section, that any person has neglected and refused to pay such commutation tax, and that the collector has been unable to collect the same, such sum shall be added to his annual commutation tax of the next year by the assessors.

§ 33. The twelfth section of the act entitled "An act making further provision for the organization of the militia," and to amend the act passed May 13, 1847, entitled "An act to provide for the enrollment of the militia and to encourage the formation of uniform companies, excepting the first military division of this state," passed April 10, 1849, is hereby amended so the said section will read as follows:

"§ 12. All mounted officers, and all members of any company of cavalry or artillery, who shall appear at parade mounted or equipped, shall receive one dollar per day for each horse actually used by them at any annual parade or encampment."

§ 34. Sections sixty-seven and sixty-nine of the act passed May 13, 1847, as above, are hereby amended by striking out in each of said sections the words "ten days," and inserting in lieu thereof the words "forty days."

§ 35. The commander-in-chief shall not be required to furnish any officer, non-commissioned officer, musician or private, or any

uniform company or regiment with any arms or equipments, except such as shall be in some arsenal of the state at the time application shall be made therefor.

§ 36. When a suit or proceeding shall be commenced in any court by any person against any officer of the militia of this state, for any act done by such officer in his official capacity, or against any person acting under authority or order of any such officer, or by virtue of any warrant issued by him pursuant to law, or against any collector or receiver of taxes, the defendant may require the plaintiff in such suit to file security for the payment of the costs that may be incurred by the defendant in such suit or proceeding, pursuant to title two, chapter ten, part three of the Revised Statutes, and all the provisions of said title are hereby applied to any such suit or proceeding.

§ 37. The commander-in-chief is hereby authorized and empowered to organize, in his discretion, the various staff departments, and to prescribe by rules and regulations the duties to be performed by the officers connected therewith, which shall, as far as may be, conform to those which are prescribed for the government of the staff department in the army of the United States; but nothing in this section contained shall be construed to change the manner of appointing staff officers by the commandants of divisions, brigades and regiments, as now prescribed by law; and in addition to the present staff department, the commander-in-chief is hereby authorized to appoint an inspector-general, with the rank of brigadier-general, whose duty it shall be to attend to the organization of the militia of this state, and he shall receive for his services while actually on duty, the same sum as is by law paid to major-generals, together with necessary and proper expenses, to be paid by the state on the certificate of the commander-in-chief.

§ 38. Whenever cannon or pieces of ordnance shall be in any incorporated village of this state, or in the vicinity thereof, where there is no organized artillery company having charge of the same, the trustees of such village shall take charge thereof, and may retain the same for the use of such village until it shall be required for some organized company, when it may be transferred from the custody of said trustees to such company by an order of the commander-in-chief, and any pieces of old ordnance in any of the arsenals of this state not required for military companies may be loaned by the commander-in-chief to the trustees of any village for the like purposes. The trustees of all villages shall, as such,

be responsible for the safe keeping and return of any such pieces as shall be in their possession under this act.

§ 39. There may be attached to each regiment a section of flying artillery, which shall not consist of more than one first and second lieutenant, two sergeants, one ordnance sergeant, two corporals, and twenty-four privates, including drivers or less than one lieutenant, two sergeants, two corporals, and fourteen privates, including drivers, to whom shall be issued two six pound field pieces, or one six pound field piece, and one twelve pound howitzer and two caissons; but nothing herein contained shall be construed to limit or abridge the right of the commander-in-chief to organize flank companies of light artillery or cavalry to be attached to regiments as now authorized by law.

§ 40. In lieu of the clerk now allowed to the adjutant-general, he is hereby authorized to appoint an assistant who shall have the rank of colonel, and be commissioned by the commander-in-chief, and who shall hold such office during the pleasure of the adjutant-general, and shall receive the same compensation as is now paid to such clerk. In the absence of the adjutant-general, from the city of Albany, or in case of his inability to perform his duties, his assistant shall have full power to perform all of the duties appertaining to the office of adjutant-general. But nothing in this section shall be so construed as to give any validity to the acts of said assistant in case of the disapproval of the adjutant-general.

§ 41. The commissary-general is hereby authorized and directed to sell and dispose of, either at public or private sale, all such muskets, field pieces and military stores, belonging to the state, as are unserviceable, and the money arising from such sales shall be paid into the treasury of the state for military purposes.

§ 42. All acts inconsistent with this act are hereby repealed.

§ 43. This act shall take effect immediately; but all the provisions of law now in force in reference to the liability of persons to fines for the non-performance of military duty, and in reference to commutation therefor, shall remain in full force until the first day of January, one thousand eight hundred and fifty-two.

STATE OF NEW-YORK, }
Secretary's Office. }

I have compared the preceding with the original law on file in this office, and do hereby certify that the same is a correct transcript therefrom, and of the whole of the said original.

CHRISTOPHER MORGAN,
Secretary of State.

